

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

(1) RREF CB SBL-AZ, LLC, an Arizona  
limited liability company,

Plaintiff,

v.

(1) PAUL A. ROMANS;

(2) RITHA B. ROMANS;

(3) ANITA LEHNUS;

(4) CHRISTINE TABOR; and

(5) OCCUPANT(S) OF 39009 LABOSKEY  
ROAD, WISTER, OK 74966, if any,

Defendants.

Case No. 16-cv-72-CVE-PJC

**PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT AND BRIEF IN SUPPORT**

Pursuant to Fed. R. Civ. P. 55(b) and Northern District of Oklahoma LCvR 55.1(b), Plaintiff RREF CB SBL-AZ, LLC (“RREF” or “Plaintiff”) moves this Court to enter judgment by default in its favor and against Defendants Paul A. Romans, Ritha B. Romans, Anita Lehnus, and Christine Tabor (collectively, “Defendants”). In support of this motion, Plaintiff shows the Court as follows:

**ARGUMENT AND AUTHORITY**

1. On February 8, 2016, RREF filed its Complaint against the Defendants (the “Complaint”). *See* Dkt. No. 2. In the Complaint, RREF seeks to void interests of property fraudulently transferred by Defendants Paul A. Romans and Ritha B. Romans (the “Romans”) to Defendants Anita Lehnus and Christine Tabor and levy execution against such property to be applied to the outstanding balance of a judgment obtained by RREF against the Romans. The

property RREF seeks to levy execution against is located at 39009 Laboskey Road, Wister, Oklahoma 74966 (the “Property”). *See id.*, ¶ 10.

2. As shown by the Returns of Service filed February 29, 2016 (Dkt. Nos. 8 & 9), the Romans were served with the Summons and Complaint on February 15, 2016. As shown by the first Return of Service filed April 7, 2016 (Dkt. No. 15), Anita Lehnus was served with the Summons and Complaint on February 9, 2016. As shown by the second Return of Service filed April 7, 2016 (Dkt. No. 16), Christine Tabor was served with the Summons and Complaint on February 27, 2016.

3. As explained in Plaintiff’s Motion for Entry of Default by the Clerk (Dkt. No. 18), Paul A. Romans, Ritha B. Romans, and Anita Lehnus were required to serve their answers by April 6, 2016, but failed to answer or otherwise plead by the April 6, 2016 deadline. Likewise, pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), Christine Tabor was required to serve her answer no later than March 21, 2016, but has failed to do so.

4. The Clerk of this Court entered default against the Defendants on April 11, 2016. *See Clerk’s Entry of Default* (Dkt. No. 19). Due to the Defendants’ failure to answer or otherwise plead, the Defendants are deemed to have admitted the allegations in RREF’s Complaint, placing no further burden upon RREF to prove its case. *See Perez v. El Tequila, LLC*, No. 12-CV-588, 2015 WL 4173541, at \*7 (N.D. Okla. July 10, 2015) (citing *Burlington N. Ry. Co. v. Huddleston*, 94 F.3d 1413, 1415 (10th Cir. 1996)).

5. Federal Rule of Civil Procedure 55(b)(1) allows a plaintiff to receive a default judgment against the defendant without a hearing if the plaintiff’s claim is for a sum certain or a sum that can be made certain by computation. Local Rule 55.1(b) also allows the Court, in its discretion, to enter default judgment without a hearing. As shown in paragraphs 7 and 15 of the

Complaint (Dkt. No. 2), RREF's claim initially arose from the failure of the Romans to fully satisfy a judgment obtained against them for monies owed pursuant to two construction loans. The Arizona judgment RREF obtained for indebtedness owed under these two loans was based on unpaid principal, interest, and other fees and penalties specified in the judgment. *See* Ex. 5 to Complaint (Dkt. No. 2-5). Because RREF's fraudulent transfer cause of action in the instant case is based on the collection of a validly entered (and domesticated) judgment taking into account these discrete sums, RREF's claim is for a sum certain. *See id.*

6. In addition, the outstanding balance due by the Romans under the judgment, which is the amount at issue in this fraudulent transfer case, is a "sum that can be made certain by computation." Fed. R. Civ. P. 55(b)(1). The affidavit attached as Exhibit 1 (the "Affidavit") specifies the amount sought by RREF in the current action.

7. As explained in the Affidavit, RREF is currently entitled to collect \$329,895.80 from the Romans, plus costs and interest that continue to accrue. RREF's judgment for this amount is a "claim" within the meaning of the Oklahoma Uniform Fraudulent Transfer Act (UFTA). *See* Okla. Stat. tit. 24, § 113(3). Under the UFTA, RREF is entitled to void the Romans' fraudulent transfer of interests in the Property to Anita Lehnus and Christine Tabor. *See* Okla. Stat. tit. 24, § 119(1). Further, the UFTA explicitly authorizes RREF to levy execution on the Property in order to satisfy its claim. Okla. Stat. tit. 24, § 119(B) ("If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.").

8. RREF's Complaint also establishes that RREF is entitled to a determination that RREF's interest in the Property is first, prior and superior to any other interest in and to the property, including but not limited to any such interest claimed by the Defendants and the

Occupants of the Property, who were also validly served and failed to appear herein. Accordingly, RREF is entitled to a judgment that grants permission to RREF to seek a writ of execution and permits the U.S. Marshall to assist RREF with levying execution on the Property.

9. Because the Romans have previously transferred interests of the Property in an effort to fraudulently avoid paying amounts due and owing to RREF, RREF is further entitled to an injunction against further disposition of the Property by the Romans and Anita Lehnus and Christine Tabor. *See* Okla. Stat. tit. 24, § 119(A)(3)(a). RREF additionally reserves the right to seek a money judgment under the UFTA against Anita Lehnus and Christine Tabor in the event the Property is placed beyond the reach of RREF or RREF is otherwise unable to recover the value of the Property in this action.

10. As confirmed in the Affidavit for Entry of Default that was attached to RREF's Motion for Entry of Default by the Clerk (Dkt. No. 18), the Defendants are not infants, incompetent persons, or otherwise exempted from default judgment under the Servicemembers Civil Relief Act, 50 App. U.S.C. § 521.

### **RELIEF REQUESTED**

RREF requests that default judgment be entered in favor of RREF and against the Defendants as follows:

A. Declaring the interest in the Property transferred to Anita Lehnus and Christine Tabor void;

B. Ordering that RREF is entitled to levy execution on the Property and apply the proceeds to the outstanding balance owed on the Judgment (as defined in the Complaint, Dkt. No. 2, ¶ 15), and that the U.S. Marshall shall assist Plaintiff with levying execution on the Property;

C. Declaring that RREF's interest in the Property is first, prior and superior to all

other interest in and to the Property, including but not limited to any such interest claimed by the Defendants and Occupants of the Property, and ordering that upon confirmation of the sale of the Property, with the assistance of the U.S. Marshall, all of the Defendants and Occupants of the Property, and all persons or entities claiming by, through or under them, or any of them, be forever barred, foreclosed and enjoined from asserting or claiming any right, title, interest, estate or equity of redemption in or to the Property, or any part thereof;

D. Enjoining any further disposition of the Property and/or its proceeds by the Defendants, Paul A. Romans, Ritha B. Romans, Anita Lehnus, and Christine Tabor; and

E. Awarding costs, interest, and attorneys' fees as permitted by law and the loan documents between Plaintiff and the Romans.

DATED April 20, 2016.

Respectfully submitted,

s/Lysbeth L. George

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***ATTORNEYS FOR PLAINTIFF RREF CB  
SBL-AZ, LLC***

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20th day of April, 2016, I electronically transmitted the attached document to the Court Clerk using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants (names only are sufficient):

N/A

I hereby certify that on this 20th day of April, 2016, I served the same document by first class mail, postage prepaid, on the following, who are not registered participants of the ECF System:

Paul A. Romans  
8243 S. Florence Ave.  
Tulsa, OK 74137

Ritha B. Romans  
8243 S. Florence Ave.  
Tulsa, OK 74137

Anita Lehnus  
3304 W. Mayo PL  
Benson, AZ 85602

Christine Tabor  
2514 E. 88th St., Apt. 5  
Tulsa, OK 74137

s/ Lysbeth L. George